

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF ALASKA, <i>ex. rel.</i>)	
Attorney General BRUCE M. BOTELHO,)	
)	
STATE OF CONNECTICUT, <i>ex. rel.</i>)	FINAL JUDGMENT AND
Attorney General RICHARD BLUMENTHAL,)	CONSENT DECREE
)	
COMMONWEALTH OF KENTUCKY, <i>ex. rel.</i>)	
Attorney General A.B. CHANDLER, III,)	CIVIL ACTION NO. _____
)	
STATE OF OHIO, <i>ex. rel.</i>)	
Attorney General BETTY D. MONTGOMERY,)	
)	
STATE OF OKLAHOMA, <i>ex. rel.</i>)	
Attorney General W.A. DREW EDMONDSON,)	
)	
STATE OF SOUTH CAROLINA, <i>ex. rel.</i>)	
Attorney General CHARLES M. CONDON,)	
)	
STATE OF UTAH, <i>ex. rel.</i>)	
Attorney General MARK L. SHURTLEFF,)	
)	
Plaintiffs,)	
)	
v.)	
)	
HOFFMANN-LA ROCHE INC.,)	
ROCHE VITAMINS INC.,)	
AVENTIS ANIMAL NUTRITION, S.A.,)	
DAIICHI PHARMACEUTICAL CO., LTD.,)	
EISAI CO., LTD.,)	
TAKEDA CHEMICAL INDUSTRIES, LTD., and)	
BASF CORPORATION,)	
)	
Defendants.)	

Plaintiffs, the States and Commonwealth of ALASKA, CONNECTICUT, KENTUCKY,
OHIO, OKLAHOMA, SOUTH CAROLINA, and UTAH ("Plaintiff States") have filed a

Complaint on behalf of their state agencies against Hoffmann-LaRoche Inc., Roche Vitamins Inc., Aventis Animal Nutrition, S.A., BASF Corporation, Daiichi Pharmaceutical, Ltd., Eisai Co., Ltd., and Takeda Chemical Industries, Ltd. (collectively, "Settling Defendants") seeking injunctive relief, civil penalties, and restitution relating to proprietary purchases of vitamins and indirect vitamin products and alleging that the Settling Defendants and co-conspirators violated federal and state antitrust and/or unfair trade practice laws. The Settling Defendants deny the allegations contained therein. The Plaintiff States commenced this action on the __ day of July, 2001.

Plaintiff States, by their respective Attorneys General, and the Settling Defendants have entered into a Settlement Agreement and have agreed by stipulation to entry of this Final Judgment and Consent Decree. The Plaintiff States and Settling Defendants have further agreed that neither the Settlement Agreement, Stipulation, nor Final Judgment and Consent Decree shall constitute any evidence against or admission by any party with respect to any matter or issue raised in the Complaint. Now, therefore, prior to taking any testimony, and without trial or adjudication of any issues of fact or law and upon the consent of the parties hereto;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I.

JURISDICTION

This Court has jurisdiction over the subject matter of this action. The Court also has jurisdiction over each of the parties hereto solely for the purpose of enforcing this Final Judgment and Consent Decree and the Settlement Agreement. The Complaint raises claims

against the Settling Defendants under Section 1 of the Sherman Act (15 U.S.C. § 1) and Section 16 of the Clayton Act (15 U.S.C. § 26). Jurisdiction lies in this court pursuant to 28 U.S.C. § 15. The Complaint also raises supplemental state claims for restitution, civil penalties, and injunctive relief pursuant to 28 U.S.C. § 1367.

II.

DEFINITIONS

As used in this Final Judgment and Consent Decree:

1. “Final Approval” means the first date upon which each of the following conditions has been satisfied: (i) this Final Judgment and Consent Decree has been entered; and (ii) either (a) the time to appeal, or to seek permission to appeal, the entry of this Final Judgment and Consent Decree has expired with no appeal having been taken or permission to appeal having been sought; or (b) the entry of this Final Judgment and Consent Decree has been affirmed in its entirety by the court of last resort to which any appeal has been taken or petition for review has been presented and such affirmance is no longer subject to the possibility of further appeal or review.
2. “Premix” means any product that contains one or more Vitamin Products in combination with other substances (such as other active ingredients or dilution agents) and is or was sold by a Settling Defendant as a premixed formulation.
3. “Settlement Agreement” means the Settlement Agreement entered into on the ____ day of July, 2001 between the Plaintiff States and the Settling Defendants. A copy of the Settlement Agreement is attached as Exhibit A to this Final Order and Consent Decree.

4. "Settlement Amount" means four million, four hundred thousand dollars (\$4,400,000).
5. "Settling Defendants" means the Defendants named in the caption of the complaint.
6. "States" or "Plaintiff States" means the States and Commonwealth of Alaska, Connecticut, Kentucky, Ohio, Oklahoma, South Carolina, and Utah.
7. "Vitamin Products" means: (i) the following vitamins and carotenoids: vitamin A, astaxanthin, vitamin B 1 (thiamin), vitamin B2 (riboflavin), vitamin B4 (choline chloride) vitamin B5 (calpan), vitamin B6, vitamin B9 (folic acid), vitamin B12 (cyanocobalamine pharma), beta-carotene, vitamin C, canthaxanthin, vitamin E, and vitamin H (biotin), as well as all blends and forms of the foregoing, and (ii) Premix.

III.

INJUNCTION

BASF Corporation, Daiichi Fine Chemicals, Inc., Eisai U.S.A., Inc., Hoffmann-LaRoche, Inc., Roche Vitamins Inc., Aventis Animal Nutrition Inc., and Takeda Vitamin and Food USA Inc. are hereby enjoined and restrained, up to and including October 10, 2002, from engaging in any horizontal conduct that constitutes a per se violation of Section 1 of the Sherman Act, including, but not limited to, price fixing, market allocation and bid rigging, with respect to the sale of any Vitamin Product for delivery in the United States.

IV.

PAYMENT TO THE STATES

On the Funding Date, each of the Settling Defendants (or an affiliate) will severally pay into escrow its share of the total sum of the Settlement Amount in full and final settlement of all

the Excluded State Claims against the Released Parties. The Escrow Agent, acting pursuant to the Settlement and Escrow Agreements, is hereby ordered to distribute the Settlement Amount, plus net interest after payment of any escrow expenses, pursuant to written direction of the parties no sooner than thirty (30) days after Final Approval.

V.

DISMISSAL WITH PREJUDICE

The Complaint against the Settling Defendants is hereby dismissed with prejudice as provided in the Settlement Agreement, and without costs.

There is no just reason for delay of entry of a final judgment of dismissal with prejudice as to the Settling Defendants, and the Clerk is therefore directed to enter such a final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

VI.

RETENTION OF JURISDICTION

Without affecting the finality of this Final Judgment and Consent Decree, the Court shall retain jurisdiction over this matter for the purpose of enabling any party hereto to apply for such further orders and directions as may be necessary or appropriate for the construction or enforcement of the Settlement Agreement and this Final Judgment and Consent Decree and to remedy a violation of any of the provisions contained herein. This Court shall have the authority to specifically enforce the provisions of this Final Judgment and Consent Decree.

VII.

TERM

On October 10, 2002, Section III of this Final Judgment and Consent Decree shall automatically terminate without any action by any party or the Court.

SO ORDERED this ____ day of _____ 2001

The Hon. Thomas F. Hogan
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA